NATIONAL EMERGENCY RESPONSE

Official Journal of the Australian Institute of Emergency Services

A.I.E.S.

VOLUME 29 NO. 2 AUTUMN 2016

PRINT POST PUBLICATION NO. PP100018976

BUSY SUMMER ON THE QLD SEAS

Help the Salvos shield those in need.

Thank God for the Salvos

www.salvos.org.au

CREDIT CARD DONATIONS 13 72 58

Official Publication of
AUSTRALIAN INSTITUTE OF EMERGENCY SERVICES

Print Post Approved
PP 337586/00067

DISCLAIMER
Views expressed in this journal, unless specifically acknowledged, are not necessarily those of the Publisher, of the Institute, of its Council or of the Editor.

EDITORIAL RIGHTS
The Editor of *National Emergency Response* reserves the right to grant permission to reproduce articles from this journal. Such Approval is hereby granted, unless a specific withdrawal of this permission is included in the article in question. The Author and the journal must be acknowledged in any such reprint.

MAILING AMENDMENTS OR ENQUIRIES
For any amendments or enquiries regarding mailing, please email: registrar@aies.net.au

NOTICE TO ADVERTISERS
This publication is the official journal of the Australian Institute of Emergency Services. It is published by Countrywide Austral for the Australian Institute of Emergency Services and will be distributed to its members.
An illegal practice is presently operating where advertisements from some of our publications are used to produce unauthorised publications and our advertisers are contacted for payment for the unauthorised advertisement.
If you are approached to place an advertisement or with a request for payment for another publication, you should verify that the advertisement has been authorised and establish the bona fides of the company.
The invoice and any correspondence should have the company name, ABN, and an address (not just a PO Box) and you should ask for proof of publication.
If you do receive a request for an unauthorised advertisement, or have concerns about the bona fides of a company, we suggest you refer it to the Office of Fair Trading in your capital city.

PUBLISHER
National Emergency Response is published by Countrywide Austral

countrywideaustral

Level 2, 310 King Street, Melbourne
GPO Box 2466, Melbourne 3001
Ph: (03) 9937 0200
Fax: (03) 9937 0201
Email: admin@cwaustral.com.au
ACN: 30 086 202 093

EDITORIAL TEAM
Editor: Kristi High
Associate Editor: Ron Jones LFAIES

Send articles for inclusion to:
Email: editor@aies.net.au

WEBSITE
www.aies.net.au

WEBSITE CONTENT
The website has sections for each State as well as National Areas. If you have ideas for State Division content, please contact your State Registrar, for National content, email web@aies.net.au
Please be aware that all content must go past the National Registrar prior to web publication to ensure it meets required guidelines.

NATIONAL EMERGENCY RESPONSE
Official Journal of the Australian Institute of Emergency Services

Autumn 2016 • National Emergency Response

CONTENTS

REGULAR COLUMNS

3 President's Report
31 AIES Contacts

FEATURES

4 Notice of 2016 AGM
5 State AGMs
6 Tassie's AGM, awards night
9 Channelling goodwill during emergencies
12 Pernicious traditions – what are they?
14 Busy summer period for Queensland's surf lifesavers
16 A Tasmanian Reminiscence
20 Crossing borders: paying out the victims after a natural disaster
28 *National Emergency Response:* Autumn flashback

FRONT COVER
Surf Lifesaving Queensland had a busy summer patrolling the beaches. Photo provided by Surf Lifesaving Queensland.

Disclaimer Countrywide Austral ("Publisher") advises that the contents of this publication are at the sole discretion of the *National Emergency Response* and the publication is offered for background information purposes only. The publication has been formulated in good faith and the Publisher believes its contents to be accurate, however, the contents do not amount to a recommendation (either expressly or by implication) and should not be relied upon in lieu of specific professional advice. The Publisher disclaims all responsibility for any loss or damage which may be incurred by any reader relying upon the information contained in the publication whether that loss or damage is caused by any fault or negligence on the part of the publisher, its directors and employees.
Copyright: All advertisements appearing in this publication are subject to copyright and may not be reproduced except with the consent of the owner of the copyright.
Advertising: Advertisements in this journal are solicited from organisations and businesses on the understanding that no special considerations other than those normally accepted in respect of commercial dealings, will be given to any advertiser.

NEW MEMBERS

The Australian Institute of Emergency Services is pleased to announce the following emergency services people joined the AIES between January and March 2016.

NAME	ORGANISATION	DIVISION
Haydon Aldersey	MR/SAH	SA/WA/NT
Eldon Bottcher	RFS	QLD
Steven Goldsmith	K9 SAR	TAS
Nick Mattock	Bay SAR, UK	National
Vanessa McDonald	SES	QLD
Corey McGrath	TFS	TAS
Simon Polling	SAAS	SA/WA/NT
Mark Richards	ark-risk	SA/WA/NT
Wayne Sunderland	Sunderland EM	QLD

LEGEND:

EM	Emergency Management
MR	Marine Rescue
RFS	Rural Fire Service
SAAS	South Australian Ambulance Service
SAH	South Australian Health
SAR	Search and Rescue
TFS	Tasmania Fire Service

LinkedIn http://au.linkedin.com/groups/Australian-Institute-Emergency-Services-3844281
or log in at au.linkedin.com and search for 'Australian Institute of Emergency Services' under 'Companies'.

www.facebook.com/aies.online

BE A CONTRIBUTOR

to *National Emergency Response*

Submissions now open for the Winter edition of *National Emergency Response*.

We are looking for:

- Stories or articles
- Peer reviewed papers
- Photographs

Send your submission to editor@aies.net.au by Friday 6 May, 2016.

The best submission, as voted by the AIES National Council, receives a gold pen award at each year's Annual General Meeting.

FROM THE PRESIDENT'S DESK

Steve **Jenkins** MAIES

National President

In February, Tropical Cyclone *Winston*, one the most powerful storms in recorded history to impact the South Pacific region and the strongest to make landfall in Fiji, left in its wake a trail of death and destruction on the small island nation.

The Australian Defence Force, along with other government agencies and multiple private aid agencies assisted in the response effort.

At the time of writing, the full scale of the devastation remained unknown but the official death toll reached into the 40s.

I am aware that a number of Australian Institute of Emergency Services (AIES) members were deployed to Fiji, and others performed support roles here in Australia.

On behalf of the AIES, I thank them sincerely for their efforts in what can only be described as a mammoth response and recovery effort that will take many years to complete.

Locally, over the past few months we have seen Mother Nature (or climate change) rear its ugly head in all states with massive bushfires and fire storms ripping through many communities; sadly with the loss of life, homes, people's livelihood destroyed including some communities nearly wiped off the map.

During one week in February Tasmania had 600-plus Tasmanian firefighters and volunteers fighting bushfires in one part of the state. During the same time, less than 100km away, the emergency services were dealing with flooding in the townships in the north and east with Gray recording over 500mm in three days. To top the week off, snow fell on the highland communities.

What was great to see in the true Australian tradition was mates helping mates, with fellow emergency services helping each other in their time of need. This included personnel from New Zealand, showing that the Anzac spirit still lives on. We have seen our emergency services, in particular our firefighters, travel from state to state helping each other out as our long hot dry summer dragged on.

To those involved, thank you, you have done yourself, your service, your family, your community and your country proud.

Christmas and New Year is now well and truly behind us. I hope everyone had a happy and safe festive season and for those who were required to work, that your shifts were relatively quiet and uneventful.

As we progress into 2016, state divisions have been holding their Annual General Meetings. I urge all members of the Institute to visit the website for an update on your division.

As National President of the Institute I have a duty to ensure, with assistance from the National Board, that the affairs of the Institute, including AGMs and other meetings, are conducted in a lawful, fair and equitable manner, and that all members are provided the opportunity to participate without discrimination and bias.

To support this, the Institute has various policies governing its operations. Any member who has issues with the processes or who feels aggrieved by the outcomes, is welcome to formally air their grievances and have them investigated. Fairness and transparency is paramount.

To this end, the National Board has been quite busy over the past year implementing processes that will streamline the Institute's reporting process and provide improved governance arrangements consequential to the approval of the new Constitution at the Institutes AGM in Sydney on 22 May 2015. The Board will continue this work during 2016.

In accordance with provision of the new Constitution, I will not be nominating for the role of President of the Queensland Division. I am able to, and will, nominate for a position on the Queensland Committee and, if elected, I look forward to working with the new President of the Queensland Division. It has been a privilege and an honour to have been afforded the opportunity to service in that role.

"Locally, over the past few months we have seen Mother Nature (or climate change) rear its ugly head in all states with massive bushfires and fire storms ripping through many communities; sadly with the loss of life, homes, people's livelihood destroyed including some communities nearly wiped of the map."

I would like to take this opportunity to congratulate Tia Rowley, a Queensland State Emergency Service volunteer from Cairns, on being this year's AIES nominee for the Young Endeavour cruise. I look forward to reading Ms Rowley's report following her adventure.

A reminder that the National AGM will be held at ANU House at the Australian National University in Canberra at 6pm on Thursday 21 April 2016. Please see page 4 for more details.

All members are welcome and encouraged to attend if possible. My next report will be following the National AGM, and will contain a summary of this meeting.

AUSTRALIAN INSTITUTE OF EMERGENCY SERVICES
ABN 75 050 033 764

Address all correspondence to:
National Secretary/Registrar
PO Box 10530 Adelaide Business Centre SA 5000
registrar@aies.net.au
m: 0400 521 304

NOTICE OF 2016 ANNUAL GENERAL MEETING OF THE AUSTRALIAN INSTITUTE OF EMERGENCY SERVICES

All Members of the Institute are cordially invited to attend the

2016 ANNUAL GENERAL MEETING OF THE AUSTRALIAN INSTITUTE OF EMERGENCY SERVICES

to be held at:

University House, Australian National University
1 Balmain Cresent, Acton, Canberra
Thursday 21 April 2016 commencing at 6pm*

Order of Business shall be:

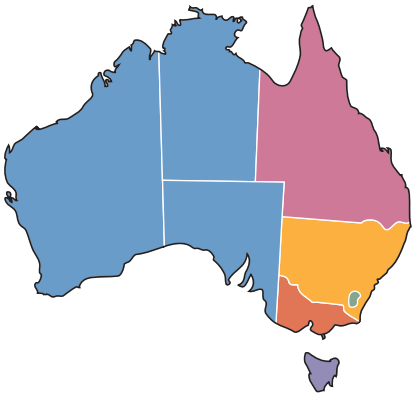
- Welcome
- Apologies
- Confirmation of Minutes of 2015 AGM and Matters Arising
- National President's Report
- National Secretary/Registrar's Report
- Division Reports
- Elections
- Notices of Motion
- General Business

*There will be an opportunity to meet the Board and AIES members at a network session from 5pm.

Peter **Schar**

General National Secretary/Registrar

STATE ANNUAL GENERAL MEETINGS



It is AGM season for all of the AIES State Divisions. Please see below for when your state will hold its AGM, or if it has recently been held, check out who your elected representatives are.

Coming up

VICTORIA
Date: 8 April 2016
Time: 7pm
Venue: Ring Ringwood, Cnr Maroondah Highway and Oban Road, Ringwood, Melbourne

NEW SOUTH WALES
Date: Monday the 11th April 2016.
Time: 19.30pm
Venue: Oaks Grand Building, 187 Kent Street, Sydney

Recently held

ACT
Held: 24 February 2016
President: Scott Milne
Vice President: Jeffrey Bollard
Registrar: Phillip Gaden
Treasurer: Chris Millar

SA/WA/NT
Held: 17 March 2016
President: Brian Mattner
Vice President: John McTier
Registrar: Peter Bos
Treasurer: John McTier
Committee Members:
David Mack
Peter Schar
Christina Retsas
David Campbell

TASMANIA
Held: 20 February 2016
President: Ron Jones
Vice President: David Paton
Registrar: Neil Wright
Treasurer: Les Batchelor
Committee Members:
Peter Geard
Roger Brown

QUEENSLAND
Held: 8 March 2016
President: Wayne Coutts
Registrar/Treasurer: Jenny Crump
Committee Members:
Mick Davis
Peter McMurtrie
Aprel Dawes
Greg Eustace
Steve Jenkins
Shane Rae

JOIN THE AIES IN 2016

Simply go to the website and apply online

Membership is open to all members of the Australia and New Zealand emergency services, and affiliated organisations.

Membership cost: $60 yearly subscription plus $30 initial joining fee*.

Student, Associate and Retired Memberships are also available.

Chapters of the Institute are established in most States in Australia, and membership of the Institute carries a professional post nominal.

*Both of these fees are tax deductible for people employed in an emergency management or counter disaster capacity.

A.I.E.S.

Find out more about AIES membership on page 31.

Visit **www.aies.net.au** to join, or to find out more.

TASSIE'S AGM, AWARDS NIGHT

It was great to see 45 members, partners and guests at our dinner at the Balmoral Motor Inn on 20 February. A great night was had by all with many friendships renewed and new friendships started with the hope of more becoming members of the AIES.

PJ Parssey nominees (L-R) Colin Cunningham, Liz Hamer, Ron Jones, Tania Burke, Ian Bradbury and Paul Darby.

After our AGM it was time for some of our awards to be presented. We finally caught up with Rowena Salter to present her with her membership certificate. Rowena joins her husband Curtis, both are members of SES in Hobart, to become our first husband and wife team to be members.

NATIONAL AWARDS

Our next award recipients were Rod Warrington from Tasmanian Police, for his outstanding work within the force, but also his commitment to supporting young children with autism and those suffering bullying at school with a support program he designed and ran. The majority of this was done in his own time. Gary Linnell was awarded for his outstanding volunteer service to the Tasmanian Fire Service 25-plus years and Ambulance Tasmania 20-plus years and to his community.

Both were awarded the National Certificate of Commendation.

Two other awards that were presented last year were the Certificate of Commendation to the 7XS Radio Station for their 20 years supporting the West Coast Emergency Service Volunteers with their Emergency Service Volunteers Worker of the Year award, now in its 21st year. A Certificate of Achievement was awarded to Dianne Coon of Strahan for her outstanding work with Ambulance Tasmania as a volunteer, but also for her work in establishing the Volunteer Ambulance Officers Association of Tasmania.

Mike Brown, Retired Chief Officer of the Tasmanian Fire Service, was awarded the National Award of Excellence. Details as per last *National Emergency Response* Journal.

Both Les Batchelor and myself were honoured by being made Life Fellows of the Australian Institute of Emergency Services for outstanding service and commitment to the Tasmanian Division.

RSL (TAS) EMERGENCY SERVICE WORKER OF THE YEAR AWARDS

After our main course, RSL Tasmania's State President, Robert Dick, presented their Emergency Worker of the Year Awards. The three winning regional nominees were Penguin Brigade Chief, Steve Webster 30-plus years. Paul Wilson Volunteer Ambulance Officer at Oatlands with 40-plus years' service and Greg Knight from the Community Emergency Response Team (CERT), Ambulance Tasmania, Longford. All regional winning nominees were presented an RSL Shield and Certificate.

Robert Dick announced that Paul Wilson as this year's winner. Paul was presented with the RSL Tasmania's Perpetual Shield and a beautiful engraved personal crystal trophy.

Robert gave a brief talk on the growing partnership between RSL Tasmania and the Tasmanian Division of the Australian Institute of Emergency Services and was looking forward to many years of supporting our emergency services with their award.

(L-R) Tasmanian RSL President Robert Dick and RSL Tasmania Emergency Service Worker of the Year Paul Wilson.

(L-R) Ron Jones with the PJ Parssey Memorial Shield, Betty Parssey, and 2016 PJ Parssey winner Tania Burke with her Huon pine trophy.

THE 26TH ANNUAL PJ PARSSEY MEMORIAL AWARD

This was one of the hardest years yet to pick the winning nominee. We had five standout nominees, all from the Volunteer Emergency Service Awards (VESA) run by the Tasmanian Broadcasters Radio Network radio stations from around the state. The nominees were Liz Hamer from the Strahan Fire Brigade, 33 years' service (7XS West Coast Winner), Ian Bradbury from Ambulance Tasmania, 23 years' service (LAFM,Chilli FM Winner), Paul Darby from SES Central Coast and North West SAR Team 30-plus years' service (7AD/SeaFM Winner), Tania Burke, St John Ambulance, Wynyard, 25-plus years' service (7BU/Sea FM Winner) and Colin Cunningham, Gretna Fire Brigade Chief 27-plus years' service (7HOFM Winner).

Betty Parssey unveiled the 2016 winner as Tania Burke from St John Ambulance, Wynyard. Tania was presented with the PJ Parssey Memorial Shield and her personal trophy from Betty. Ali Tope representing the RACT presented Tania with an accommodation voucher for the Cradle Mountain Lodge as part of their ongoing sponsorship of the PJ Parssey Memorial Award.

All nominees received an AIES shield and certificate to recognise their nomination but also a Certificate of Appreciation from Volunteering Tasmania.

Rev Les Batchelor and Ron Jones with their Life Fellow Certificates.

SOME PEOPLE WE MUST THANK

RACT for their ongoing sponsorship of the PJ Parssey Memorial Award.

Tasmanian Broadcasters (Grant Broadcasters Aust) for the ongoing support to recognise the fantastic work of our Emergency Service Volunteers through their five regional stations.

My State Financial for coming on board with the Tasmanian Broadcasters Radio Network with a sponsorship package worth around $5000 for the winning nominations.

RSL Tasmania for supporting both our career and volunteer emergency service workers.

The Tasmanian AIES Board and our members.

Jean Muller and staff at the Balmoral Motor Inn.

And of course our Honorary Paton, Betty Parssey.

DONATE BLOOD AND YOU'LL SAVE THREE LIVES.

AND GET THE BEST BISCUIT EVER.

When you give blood, you save three lives. No wonder the biscuit you eat afterwards is so satisfying. To donate, call **13 14 95** or visit **donateblood.com.au** because giving blood feels good.

Australian Red Cross
BLOOD SERVICE

CHANNELLING GOODWILL DURING EMERGENCIES

Livingstone Lend-A-Hand Community Clean-up Day, March 2015. Credit: Volunteering Queensland.

Volunteering Queensland and Volunteering Tasmania

The goodwill that follows a disaster is testimony to the generosity of the human spirit. Yet, without effective coordination, spontaneous volunteers can be problematic. In some cases they distract emergency services and lead agencies from the important work of managing the disaster. Worse still, the volunteers put themselves or others at risk in their attempt to help.

The Emergency Volunteering Community Response to Extreme Weather (EV CREW) service was originally developed by Volunteering Queensland (VQ) in 2008 to channel the goodwill that follows a disaster. The EV CREW service provides a coordinated approach that matches volunteers, with the needs of organisations supporting response and recovery efforts as well as a range of volunteer and volunteer management support.

Community members interested in helping with disaster efforts are able to register as individuals or as a group through the website, detailing their specific skills, equipment they can provide, the geographical area in which they can volunteer and their availability.

Approved organisations involved in disaster response and recovery activities register their activities based on community request and need. People that match the requests are contacted to confirm their availability and informed of the help required. This is all tracked and recorded in the state-of-the-art database based on a salesforce platform, utilising cloud technology.

Since beginning the service, VQ has made over 32,000 volunteer referrals to 200 disaster campaigns across Queensland. While mostly utilised for cyclones, floods and fires, the service can also be used to recruit volunteers for other emergencies such as oil spills, explosions or pandemics.

"People offering their assistance have varying levels of technical or professional skills that are often very useful," said Director of Social Engagements with VQ Julie Molloy.

"The service collects specific skill sets and can match volunteers to particular roles. It's proven hugely valuable to government agencies, NGOs and communities in need."

With the success of the initiative in Queensland, EV CREW has now been implemented in the ACT with Volunteering ACT and in Tasmania with Volunteering Tasmania.

In Victoria, the same service is called 'HelpOUT' and is currently being piloted in the Greater Geelong region. Pending funding, the service will be rolled out across the state by Volunteering Victoria.

> *"Since beginning the service, VQ has made over 32,000 volunteer referrals to 200 disaster campaigns across Queensland."*

A common approach means the state peak bodies for volunteering are well positioned to help each other during an extreme emergency when the service is needed, but more importantly it will provides a consistent experience for potential volunteers and support to volunteer managers relevant to local needs.

FIND OUT ABOUT THE SERVICE:
Queensland - http://www.emergencyvolunteering.com.au/qld
ACT - http://emergencyvolunteering.com.au/act
Tasmania - http://emergencyvolunteering.com.au/tas
Victoria - http://volunteeringvictoria.org.au/helpout/

THE POWER OF A NOT FOR PROFIT

aps GROUP benefits

THE POWER OF A CO-OPERATIVE

All of your family can become members and access our LOAN PRODUCTS.
Are your credit cards full? Are the banks knocking you back for a loan?
Do you need a loan? Does your credit card attract interest over 20% p.a.?
Call APS Benefits 1300 131 809.

SECURED CAR LOANS

Need finance for a new or used car?

Need finance for a caravan, motorbike, truck, trailer or farm machinery?

No deposit necessary and no monthly or annual fees.

NO penalties for early repayment of the loan.

Approval within 24 hours.
It can't be any easier than that.

Speak to Danielle Rowe on 1300 131 809.

PERSONAL LOANS

Need an unsecured personal loan?

Don't pay credit card interest rates again.

Need cash for a car, holiday or school fees?

Apply online and have approval within 24 hours.

Approved within 24 hours.

It can't be any easier than that.

Speak to Danielle Rowe on 1300 131 809.

PROPERTY LOANS

Are you paying more than 6% interest p.a. for your property loan?

Had trouble with the banks?

APS Benefits can lend up to 70% of the valuation of the property.

Speak to Sam Athans or Tony Calder on 1300 131 809.

FUNERAL COVER

Instant cover up to $20,000.

Guaranteed acceptance.

Only $3.00 per week.

Children's funeral cover only $39 per year for $7,000 of cover.

Call us on 1300 131 809.

Australian Public Service Benevolent Society Ltd
Level 1, 16 - 20 Howard Street (PO Box 326) North Melbourne VIC 3051
Phone (03) 9322 2000 • 1300 131 809 • Fax (03) 8637 8200
info@apsbs.com.au • www.apsbs.com.au
ABN 64 077 846 809 AFSL No. 244115

DISCLOSURE INFORMATION: Membership of APS Benefits automatically entitles you to a funeral benefit issued by APS Benefits. You should consider the Combined Product Disclosure Statement & Financial Services Guide (available from APS Benefits or our web site on www.apsbs.com.au) before making a decision to become a member of APS Benefits or buy any products offered by APS Benefits. Financial services provided by Australian Public Service Benevolent Society Ltd are provided under its AFSL No. 244115. APS Financial Planning and its advisers are authorised representatives of Fortrum Private Wealth Pty Ltd ABN 54 139 889 535 AFSL 357306 trading as Financial Planning Services Australia. Financial services provided by APS Financial Planning Pty Ltd are provided under Fortnum's AFSL No. 357306. ***APS Savings Disclaimer:** This is not a bank product, it is an unlisted APS Note. No independent assessment has been made about the risk to investors losing any of their principal investment. Applications for APS Notes can only be made on the Investment Application Form which accompanies the prospectus issued by APS Savings Ltd. Please read the prospectus carefully before deciding whether to make an investment. **APS Will & Estates:** Liability limited by a scheme approved under Professional Standards Legislation.

THE POWER OF A NOT FOR PROFIT GROUP benefits THE POWER OF A CO-OPERATIVE

The Australian Public Service Benevolent Society (APS Benefits) is a not for profit co-operative that provides a wide range of financial and personal services to all current and ex-government department employees and contractors, their families and friends. Having been in existence for over 100 years, the APS Benefits family has earned the trust of over 29,000 members and clients now offering the following financial and professional services listed.

APS Tax & Accounting

Richard Ferraro at APS Tax, Accounting and Business Services is an experienced CPA taxation accountant. Whether it is setting up a business, managing your superannuation fund or just obtaining quality service, Richard can help you.

APS Financial Planning

Timothy Foster provides access to advice and information on the important financial decisions we all face, whether it be superannuation, investments, pre and post retirement planning, life insurance, gearing, disability and trauma insurance, managed funds or savings plans.

APS Mortgage Broking

Sam Athans treats every mortgage as if it were his own. He has access to 20 mortgage lenders and has over 40 years experience in banking. Let us do the leg work for you.

APS Insurance (General Insurance Broking)

Danielle Rowe heads up our insurance broking team and has access to products that include home and contents, motor vehicle, boat/caravan, landlord, public liability, income protection, life, disability & trauma insurance. The next time you receive your insurance renewal notice or want insurance for the first time, call Danielle on 1300 131 809.

APS Personal Loans

The APS Benefits personal loans team can assist members to obtain an unsecured loan, or they can apply online at **www.apsbs.com.au**. Either way, loans can be approved within 24 hours.

APS Funeral Cover. Adult & Child Cover Available.

APS Benefits Membership Coordinator Jesse Clarke can assist members to gain immediate funeral cover up to $20,000 for adults and $7,000 for dependent children (aged 2 to 15 next birthday). Do you have cover in the greatest time of need?

APS Savings

APS Savings Ltd is a wholly owned subsidiary of APS Benefits and offers a Fixed Term Investment product. Ask Sam Athans about the interest rate on offer and you will be pleasantly suprised. The term can be 6 months, 12 months or 24 months.

APS Wills & Estates

Phil Lambourne from APS Wills & Estates has over 25 years experience as a lawyer. Phil can help you with wills, powers of attorney, probate and estate administration. Is your will up-to-date? Have you reviewed your will recently? It affects more than just you!

APS Benevolent Foundation

Recently launched, the Foundation is a registered charity and a deductible gift recipient. Donations above $2 are tax deductible. The Foundation will enable the Society to expand our level of benevolence.

Further to this, APS is owned by its members, so any profits are channelled back to members. Help spread the word by introducing new members and APS will send you, your nominated charity or your staff social club $50 for each new member you nominate.

For more information call us on 1300 131 809 or visit www.apsbs.com.au

Australian Public Service Benevolent Society Ltd
Level 1, 16 - 20 Howard Street (PO Box 326) North Melbourne VIC 3051
Phone (03) 9322 2000 • 1300 131 809 • Fax (03) 8637 8200 • info@apsbs.com.au • www.apsbs.com.au
ABN 64 077 846 809 • AFSL No. 244115

PERNICIOUS TRADITIONS – WHAT ARE THEY?

Associate Professor Brett **Aimers**

James Cook University, MAIES

The Asia Pacific region is the most disaster prone region in the world.

Increasingly, as a region, it is experiencing a greater frequency of severe, catastrophic or out-of-scale disasters with more devastating and wider reaching consequences.

Evolving weather and climatic patterns are contributing to fires starting easier and burning harder, flood waters moving quicker and travelling further, and a heightened incidence of opportunistic epidemics.

In the past decade alone, a person living in the Asia Pacific region was 30 times more likely to be affected by a natural disaster as a person living in North America or Europe.

Arguably, this places, or should place, more traditional approaches to disaster planning and management under the microscope to ensure they are contemporary and considerate of an ever-changing hazard landscape.

From an Australian point of view, this summer has seen a number of significant fire emergencies in Western Australia, South Australia, Victoria and Tasmania – where no less than 125,000 hectares have been burnt within a total perimeter of 1000 kilometres.

Despite a number of significant 'after action' reviews and investigative processes, arguably, as a sector, the need for change and/or enhancement to doctrine and practice is continually acknowledged, yet there is a failure to fully comprehend and embrace it.

A pernicious tradition is one that has a harmful effect, especially in a gradual or longitudinal way. From a disaster management point of view, a range of lessons or recommendations arising, not comprehended or embraces, are, or are becoming, a pernicious tradition.

Undoubtedly, members of the Australian Institute of Emergency Services have been active throughout Australia preparing for, responding to and recovering from a range of emergencies to impact their communities. Members themselves may have encountered a pernicious tradition.

This year, at the 2016 Australia and New Zealand Disaster and Emergency Management Conference (ANZDMC), Associate Professor Brett Aimers (National Director AIES) will explore the concept of pernicious traditions and discuss several ways to help recognise and work toward overcoming them.

Since its foundational conference in 2012, the AIES has been a proud partner organisation to the ANZDMC.

For more information about the conference please see page 13.

DISASTER & EMERGENCY MANAGEMENT

AUSTRALIAN & NEW ZEALAND DISASTER AND EMERGENCY MANAGEMENT CONFERENCE

30 - 31 May 2016 | Jupiters Hotel, Gold Coast

anzdmc.com.au

The Conference theme 'EARTH, FIRE and RAIN' will continue to examine issues that impact preparedness, resilience, response and capability.

The program will provide all participants with an opportunity to contribute, learn and network with peers. It will examine the lessons learnt from recent national and international events and provide a comprehensive forum to examine the expertise, competencies and systems relating to our preparedness and response.

The Conference Program will include an extensive range of topics with Keynotes, Concurrent Sessions, Case Studies, Panel Discussions and Poster Presentations.

TOPICS WILL INCLUDE:

- International Response to Disasters
- The Recovery Process
- Understanding and Enhancing Resilience
- Volunteers in Emergencies
- Consequence Management - from Preparation to Business Continuity
- Crisis Leadership
- Psycho-Social Implications of Disaster Management
- Emerging Technology and Capability Needs
- Urban Search and Rescue

A.I.E.S.

bushfire&natural HAZARDS CRC

Australian & New Zealand Mental Health Association

Sustainability
Association for Sustainability in Business Inc

BUSY SUMMER PERIOD FOR QUEENSLAND'S SURF LIFESAVERS

It's been a busy and challenging few months for Queensland's army of volunteer surf lifesavers and professional lifeguards, with thousands of people flocking to the beach to make the most of the summer school holidays.

Surf Lifesaving Queensland

Photo credits: Surf Lifesaving Queensland

Lifesavers and lifeguards along Queensland's coastline combined to directly save the lives of more than 1,000 swimmers. Just as importantly, behind the scenes, Surf Life Saving Queensland (SLSQ) rolled out a number of new and unique initiatives, tested new search and rescue technology, and implemented new tools designed to break down the multi-lingual communication barriers.

NEW TECHNOLOGY

Each and every year SLSQ is on the hunt for new tools, technology, equipment and techniques that can boost its reach and protection along Queensland's coastline. This summer, surf lifesavers and lifeguards made the most of the warm weather, trialling high-powered water scooters in an attempt to improve efficiency in search and rescue missions at several locations across Queensland.

The motorised scooters, which are known as Seabobs, were originally manufactured as recreational water tools but have also been trialled as a means of improving movement in the water, reaching speeds of up to 20km/h and diving to depths of 5m.

SLSQ lifeguards trialled the jets during patrols at Green Island in North Queensland, coinciding with an influx of visitors for Chinese New Year celebrations and following the drowning of two Chinese tourists off the 'black-spot' island last year. Trials were also conducted during patrols at Moreton Island.

Simulated testing was also conducted on the Gold Coast and Sunshine Coasts, with qualified surf lifesavers putting a Seabob to the test against a traditional rescue board.

SLSQ lifesaving services manager Peta Lawlor said rescue scenarios involved retrieving a 'patient' from 50-70m offshore, with interesting results.

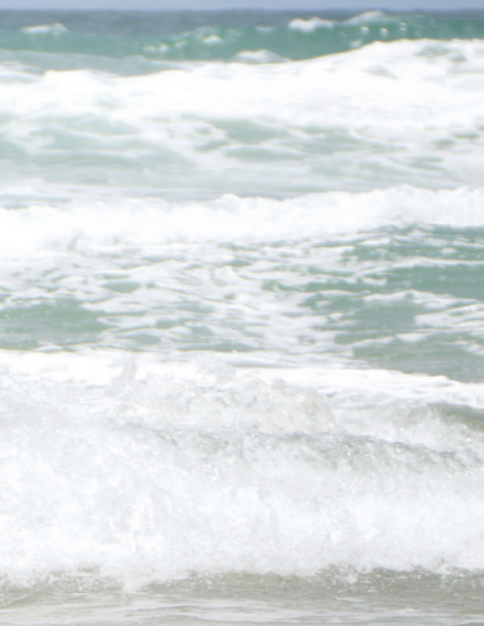
"If someone is missing, we can put goggles and a mask on and go along the bottom of the ocean, so we're looking at the Seabob in terms of search and rescue," Ms Lawlor said.

"Every second we save using the Seabob is a better chance for the patient to survive."

Reviews and trials of the Seabob will continue in the coming months.

"Berenang di antara bendera merah dan kuning."

Swim between the flags!



SURFSPEAK

"Berenang di antara bendera merah dan kuning."

To most people it won't make sense, but Surf Life Saving Queensland is hoping the above phrase may one day save a life.

Indonesian for 'swim between the flags', it forms part of a powerful new tool designed to help surf lifesavers and lifeguards directly engage with people from culturally and linguistically diverse backgrounds and communicate surf safety messages in their primary language.

SurfSpeak – a water-resistant booklet with phrases in 11 different languages – has been designed by University of Queensland staff member Mark Schroder in collaboration with SLSQ to help surf lifesavers and lifeguards communicate more easily with non-English speaking beachgoers.

It was trialled at key beaches, including Surfers Paradise, Green Island and South Bank, across the peak summer months.

SLSQ lifesaving services manager Peta Lawlor said the booklet would play a key role when it came to protecting beachgoers over the upcoming summer months.

"Queensland's beautiful beaches attract thousands, if not millions, of international tourists each and every year and being able to communicate effectively with these people has proved to be extremely challenging for lifesavers and lifeguards in the past," Ms Lawlor said.

"Even simple messages such as 'swim between the flags' can become very difficult to communicate effectively when you don't speak the same language.

"There's no doubt in my mind that this initiative will make our jobs a lot easier on the beach but, more importantly, will also play a key role in directly saving lives along Queensland's coastline," she said.

EXTENDED SERVICES

Extra services rolled out by Surf Life Saving Queensland across the school holidays ensured tourism hot-spot Surfers Paradise had a lifesaving service stationed on it for at least 14 hours every weekend and public holiday.

The red and yellow flags were raised at most beaches from 7am to 6pm, with regular weekend beach patrols at Surfers Paradise continuing through to 6.30pm, after which SLSQ stationed a safety and community liaison service at the area through to 7pm to engage with beachgoers, proactively warning them about the dangers of entering the water at night and discouraging them from swimming at unpatrolled locations.

SLSQ's daily dawn patrol, operating each day from 4.30am, continued to provide a vital service protecting early-morning beachgoers during summer.

An extra roving patrol service was also implemented to cover an unpatrolled 3km stretch of coastline adjacent to Sea World Resort, which has previously been identified as a 'black-spot' following a number of incidents at the location.

The Westpac Lifesaver Rescue Helicopter Service also increased its services, conducting twice-daily aerial patrols, while SLSQ's emergency response groups continued to operate around-the-clock, providing a quick response to after-hours incidents.

A TASMANIAN REMINISCENCE

About 40 years ago I joined the Comms Branch of the NSW State Emergency Services HQ at Bathurst Street, Sydney. I was recruited to the position perhaps because I had served in the Royal Australian Corps of Signals, during the Vietnam era as a Communications Centre Supervisor and because the Branch Manager, Lieutenant Colonel Peter Taylor, had belonged to the Corps of Signals during WW2.

Des **Lambley**, MAIES

Later, while attending a Staff Officer's Course at the Australian Counter Disaster College at Mt Macedon in 1976 I met a fellow officer from the Tasmanian SES, Bevis Dutton. Over the customary pre-dinner drinks in the Mess he said that he was organising an exercise for the North West Tasmanian Region volunteers that involved about seven days on the 65km Overland Track from Cradle Mountain to Lake St Clair. One purpose was to provide supervised experience to volunteers about what the Track was like in snow and ice.

Participants would have to maintain themselves for the walk with what they carried on their back. His reason was prompted by his involvement a couple of years earlier in the rescue of a group of inadequately equipped teenage boys and two teachers from a Melbourne school that had been trapped in a December blizzard on the Pelion Plain. Regrettably, their trip proved fatal. The other purpose for the 1976 exercise was to test the feasibility of providing some sort of safety communications along the track for the National Parks people.

I was invited to join exercise *Safer Walking*. Tasmania's highland climate is fickle and unpredictable. Muddy conditions prevail and heavy rain, high wind and snowfalls are common even in summer. The most dangerous areas are the exposed section between Waldheim and Windermere where much of the Track is above the 1200 metre level. It was a magnificent but comparatively difficult walk in those

Replenishing water supplies after the four-hour 300-metre climb to the shoulder of Cradle Mountain.

The radio in its waterproof pack and aerial is worn on the body front to counter the backpack weight.

Muddy conditions on the button grass moor. Barn Bluff is upper left.

days when the duck-boards did not exist. There were nine of us, Charles Hanson, Tim Hay, Allan French, Bevan Fraser, Jim Lunn and Frank Martin, all Tasmanian SES volunteers, Bevis Dutton, a Tasmanian SES Staff Officer, Ian Milne, a Telecom expert and myself. We set off for the exercise in October. After the rendezvous at Wynyard it was a long two-hour, 120 kilometre journey for a midnight arrival at Waldheim and cold floorboards in a disused hut. The condition of some of the huts on this track were found wanting. There were rough slab walls and holes, no doors, primitive fireplaces and chimneys, and infernal thieving possums which meant that our backpacks with foodstuffs had to be slung in the air on ropes over rafters. One well-known critter, 'Black Pete' had a bad reputation. The overnight stops were at Waterfall Hut, Windermere Hut, Pelion Hut, Ducane Hut, Pine Valley Hut and Narcissus Hut. Our personal blizzard tents were not required because the exercise was held prior to the Track being opened for the walking season by the National Park Authority.

The exercise was also intended to test an experimental, portable 100 watt single-side-band radio made by the Wagner Company of Sydney, and to test the standard SES VHF set. The Wagner was a reasonably hefty piece of equipment and utilised a 60-foot dipole antennae. Batteries were rechargeable types and heavy also. The National Parks people had prepositioned at a hut about halfway through a small petrol generator for recharging the batteries. We arranged to involve other SES HF radio stations across Australia and New Zealand to listen out for our test skeds. Test calls were scheduled for 8am, 12pm, 4pm and 8pm each day. A number of stations from New Zealand, Queensland, South Australia, New South Wales and Victoria were contacted and others reported by fax that they had heard our call. For the HF band skip distances, skywaves, meant that the long ranges worked rather well but the mountains and close country were shielding the groundwaves locally. Technically the Wagner worked well. However, its weight and power requirements were a disadvantage for its use in this cold, difficult alpine area in bad weather. Another problem was that there are very few trees above snow lines.

Pelion Gap at 1113 metres and Mt Ossa on the skyline.

A cold and windy early morning boat ride. SES flood boat crews contributed to the exercise by recovering us from the top end of Lake St Clair back to Cynthia Bay for a road pick-up and home. The 1253 metre Mt Ida is on the skyline.

We experimented by laying the aerial on the ground but this caused it to lose most of its radiation power. On a number of occasions we had men at each end stretching the aerial so that it was a metre or so above the ground. This too proved futile.

Today the small, efficient mobile telephone has proven its worth on many occasions for the emergency services industry right across Australia. While modern, hi-tech development within the communication industry has occurred rapidly even these mobile systems can fail when they become overloaded in extreme emergencies, and when transmitters and relay stations crash or are wiped out by the natural elements or humans.

More recently when researching and authoring history about the Signal Service in WW1 (*Jack the Rooster: The AIF Signal Service in WW1*, 2015) I was prompted to remember this radio exercise in Tasmania.

WW1 was an intense era for experimentation and radio was used on the Western Front and in Mesopotamia and proved most valuable. It is a fact that in 1914 some six hundred British aircraft had been fitted with an air-to-ground transmitter that the pilot could use to send to ground stations Morse code messages about the enemy's dispositions. The first wireless used generally in the trenches in 1915 by British Forces was a 50 Watt instrument known as the 'BF (Trench) Set'. It operated on 450 and 550 metre wavelengths, weighed about 60 kilograms and had an operational range of about four kilometres. This set was used extensively throughout the war. Its big brother operating on the same frequencies was the 130 watt Wilson Continuous Wave Mark III Trench transmitter and Short Wave Tuner. It had a range of about nine kilometres and was used for communicating further to the rear. High, permanent aerials gave it a greater range but made it a target and more susceptible to damage by shellfire.

The highly portable 20 watt Loop Set intended for use in the forward areas came into operation during 1917. It was a two valve heterodyne receiver and a spark transmitter working on fixed frequencies of 5MHz and 3.75MHz. The transmitter had a loop aerial of about one metre in diameter and an earth pin. The receiver used an antennae of about 10 metres long. Not only were there risks in operating wireless stations in forward areas but getting the equipment to the selected locations often involved arduous and hazardous work.

An example of this can be seen in one citation, "On the morning of 4 October 1917 in the attack on Passchendaele Ridge, Sappers James Grier Pannell and

Unsuccessful experiments were conducted to see if a reflector (an aluminised groundsheet) would improve the range of the VHF set.

Harry Franklin Broadbent with a carrying party of one NCO and six other ranks took an smplifier station forward. The party was caught in the enemy barrage, rendering the whole of the carrying party casualties. Sapper Broadbent with Sapper Pannell placed the apparatus in a safe place and returned through the barrage and procured fresh carriers. They recovered the apparatus, installed it in position and established communications. They remained at the station in the forward area for ten days, maintaining communication under great difficulties."

Both men were awarded Military Medals for their gallantry. The Generals had thought the horse, not Morse was the answer to war.

Guglielmo Marconi said, "The value of Wireless Telegraphy may one day be put to a great practical and critical test; then perhaps there will be a true appreciation of the magnitude of our work." These words by the recognised inventor of long distance wireless were prophetic.

Was this walk successful? As an exercise in gaining experience in mountain rescue, human endurance and teamwork, yes. As a solution for communications within the Park, no. As a test for the new HF portable, yes. However, the exercise was memorable – but we were all much fitter then.

The last stage. Out of Pine Valley with The Parthenon on the skyline.

The orange aerial can be just made out stretching from the radio to the lonely tree for the midday sked at Lake Will.

PAYING OUT THE VICTIMS AFTER A NATURAL DISASTER:

The Earthquake Commission, Private Insurance and Red-Zone Payouts after the Canterbury (New Zealand) Earthquakes

The 2010-2011 earthquakes in Canterbury, New Zealand, presented many post-earthquake problems. Some were solved promptly; others still linger four years on. The focus of this paper is on the process of distributing losses arising from the earthquakes. In any natural disaster the process may be complicated, with a need to establish the respective liabilities of the victim, private insurers and the state.

Professor Elizabeth **Toomey**

School of Law, University of Canterbury, Christchurch

Professor Jeremy **Finn**

School of Law, University of Canterbury, Christchurch

Mr Henry **Holderness**

School of Law, University of Canterbury, Christchurch

This paper was presented at the Australian and New Zealand Disaster and Emergency Management Conference Surfers Paradise, Gold Coast, 3-5 May 2015. It has been published with permission from the authors and may have been slightly edited to fit within the style and space limitations of this journal.

In theory in New Zealand the Earthquake Commission (EQC), a government-owned entity, is the first-tier insurer for natural disaster damage to residential dwellings, which were insured against fire damage, with all other losses falling on the owner or a private insurer.

Owners or insurers carried the risks for all other forms of property. In post-earthquake Canterbury the operation of this apparently simple system was plagued with difficulties. Were EQC and insurance companies liable to pay out for each significant earthquake or after-shock? Would the citizens who could not, or did not, insure their property be recompensed, and by whom? A further layer of complexity arose for the many properties on land, which had been 'red-zoned' as unrepairable at least in the short term, after the Government, through a different process, offered to buy out the property owners.

EQC COVER AND DETERMINING WHAT IS 'NATURAL DISASTER DAMAGE'

EQC is the primary insurer for earthquake damage to residential buildings and the land on which they stand. It is a statutory body set up under the *Earthquake Commission Act 1993* (ECA), which is funded by a levy on insurance premiums paid by owners of residential property.[i] EQC insures the owners of residential buildings against loss from damage caused by earthquakes and other natural disasters[ii] to the buildings provided there is an insurance policy in place against loss by fire. EQC also covers damage to land under the dwelling or any outbuildings, as well as land within eight metres of such buildings and land used for the main access to the property (but not surface damage to such access).[iii] Any such damaged land is covered for its value at the time of the disaster or the repair cost, whichever is the lower amount.[iv] Compensation for damage to buildings and land is capped at $100,000 plus GST per event per dwelling.[v] If there is a series of damaging events, each generates a separate claim.[vi] There is no cover for residential buildings that are not insured or for land zoned residential on which there are no dwellings. There is no cover for commercial, industrial or agricultural buildings or land.

Property owners may also insure against natural disaster risk. Section 30 of ECA provides rules for determining the respective liabilities of EQC and commercial insurers in such cases. In practice, almost all policies were in terms, which provided for the insurer to indemnify the insured for losses in excess of the amount of EQC cover. Indeed most insurers would not offer disaster cover except through such a 'top-up' policy.[vii]

By March 2013 more than 720,000 claims had been lodged, with the total liability of EQC expected to total somewhere between $12.5 billion and $15 billion. Many took months, even years, to settle, with very large numbers still unresolved. Most of the delays were due to uncertainties or disputes as to whether the loss involved was below or above $100,000, and so whether insurers other than EQC shared the costs. In a number of other cases the issue was not the quantum of loss, but whether EQC cover extended to the particular loss in question. If it did not, EQC would not pay out, nor would cover be available under any insurance policies. Arguments over two quite different kinds of loss were only resolved by litigation

INCREASED FLOOD VULNERABILITY, "INCREASED LIQUEFACTION VULNERABILITY" AND "NATURAL DISASTER DAMAGE"

Much of the residential land in Christchurch was affected by the series of earthquakes in 2010-2011. The most serious problem was that large areas of suburban land, much of it reclaimed swamp land not much above normal sea level, subsided by up to 150mm while other areas, particularly at the main river estuary draining Christchurch, rose by up to 450mm.[viii] The disruption to established drainage patterns meant many areas became much flood-prone, or very much more flood-prone, a state of 'Increased Flood Vulnerability' (IFV). Some property owners in these areas, and some elsewhere, also found their properties had a greater risk of 'Increased Liquefaction Vulnerability' (ILV) and consequent subsidence damage should further seismic events occur. About 13,500 residential premises, or seven per cent of all residential properties in the Canterbury province, were identified as being significantly affected by ILV.

In addition many buildings on land which had experienced liquefaction had been significantly damaged by the resulting subsidence. EQC immediately accepted that buildings damaged by subsidence were covered under the statutory scheme, but initially denied liability for IFV and ILV. In 2012 EQC accepted in principle that IFV would be covered, although guidelines for the level of compensation still had to be developed. It did not accept liability for ILV.

Ultimately issues of cover for ILV and IFV came before a Full Court of the High Court in *Earthquake Commission v Insurance Council of New Zealand*.[ix] The starting point was that cover under ECA is that compensation is available for

insured residential property where there is "natural disaster damage", which is defined to mean:[x]

a. any physical loss or damage to the property occurring as the direct result of a natural disaster; or
b. any physical loss or damage to the property occurring (whether accidentally or not) as a direct result of measures taken under proper authority to avoid the spreading of, or otherwise to mitigate the consequences of, any natural disaster, but does not include any physical loss or damage to the property for which compensation is payable under any other enactment; or
c. any physical loss or damage to the property that (in the opinion of the Commission) is imminent as the direct result of a natural disaster which has occurred.

The Court held that the IFV land was damaged because it had been reduced in volume and made less suitable for its primary use as a platform for building by the increased flood risk. This was physical loss or damage triggering a right to payment by EQC.[xi] The same logic was then applied to the ILV land, which again was held to have suffered "damage" and qualified for costs of repair, reinstatement or a sum by way of compensation under the legislation.[xii] In practice, compensation was the only practical solution,[xiii] so owners would receive a cash sum equivalent to the diminution of the land's market value.[xiv] Damage to the house could be claimed separately, but no compensation was available for the loss of value of an undamaged house on ILV or UFV land.[xv] Any such loss fell on the owner or an insurer. The decision can be seen as a pragmatic solution to a difficult problem, and so far there is no indication of any appeal against it.

LOSS OF ACCESS AND 'NATURAL DISASTER DAMAGE'

The second issue related to properties, mostly in the hill suburbs, where the homes had suffered no, or remediable, damage but the owners could not access the land because the access to the area, let alone repair work or resuming residence, had been prohibited because of the risk of falling rocks or land movement should there be another earthquake. In these cases, did the loss of access count as loss or damage to the property, able to be compensated separately from the physical damage? The matter came before the High Court in 2014 in the case of *Kraal v Earthquake Commission*.[xvi] Here the plaintiffs were prevented from repairing or occupying their house because of possible rockfalls from nearby land, a state of affairs expected to last until at least 2022. Unless EQC cover extended to the loss flowing from the lack of access, the plaintiffs could not claim under their insurance policy The High Court held the statutory definition of damage, set out above, did not extend to this kind of loss.[xvii] The plaintiffs were, therefore, not entitled to the declaration, and were not entitled to EQC cover or insurance pay-outs. This was not unexpected, as commentators had suggested that the claim was unlikely to succeed.[xviii] However the plaintiffs appealed, unsuccessfully to the Court of Appeal.[xix] The Court held, as a matter of statutory interpretation, that the key definitions in the ECA excluded loss of the kind claimed here.

Nor could the appellant rely on an alternative statutory definition of natural disaster damage which allowed recovery where the damage to the property was caused by governmental action to prevent the disaster or mitigate its effects, as again that required loss or damage to the property, not a loss to the property owner.[xx] The Court summed up its decision in unambiguous language:[xxi]

> …the [Earthquake Commission Act] does not extend to a claim for losses arising from an event which has not physically affected the body of the property.

INSURED AND INSURER – AN IMPORTANT BUT TROUBLED RELATIONSHIP

There has been extensive litigation between property owners and their insurers since the Christchurch earthquakes of 2010-11. As discussed earlier, the ECA caps EQC's liability to the owner of a residential property at $100,000 plus GST per event. In most cases remediation costs in excess of the cap are the responsibility of the homeowner's private insurer, provided that the terms of the policy of insurance respond to the damage or loss, which has been suffered.[xxii] In respect of commercial buildings, EQC has no liability (under the ECA or otherwise)

and remediation is the responsibility of building owners or their private insurers. Accordingly, the relationship between the home or building owner (the "insured") and the private insurer remains a key one in New Zealand's natural disaster insurance regime. This section of the paper looks at a selection of the court decisions that have considered key issues arising in this context.

POLICY INTERPRETATION – THE ROOT OF THE PROBLEM

Virtually all the earthquake cases concerning the relationship of insured and insurer have stemmed, directly or indirectly, from disputes about the meaning and operation of insurance policies.[xxiii] That is to be expected, because:

- An insurer's liability to its insured is governed first and foremost by the insurance policy;[xxiv] and
- The essential terms of insurance policies are often open to differing interpretations. The larger the claim, the greater the incentive for each party (and particularly the insurer) to identify and assert an interpretation of the policy favourable to its own financial interests; but
- The wording of insurance policies differs widely, so that a court decision about one particular policy will not necessarily have much value as a precedent in other cases (as policy interpretation involves questions of law, an earlier decision can have precedential value if the policy wording is identical).

RESIDENTIAL PROPERTIES

A number of interpretation disputes have arisen in the residential context. In *McLean v IAG New Zealand Ltd*,[xxv] for example, the homeowners decided not to rebuild their home, which had been damaged beyond repair; they instead opted for a cash settlement. The insurer was only required to pay them the 'present value' of the dwelling to settle the claim. The policy defined present value as the 'reasonable cost to repair or replace' the dwelling, minus an allowance for depreciation.[xxvi] The homeowners asserted that these words ought to be given their ordinary meaning, and therefore included not only what was required (notionally) for the reinstatement of the dwelling, but additional 'professional' costs as well.[xxvii] The insurer counter-argued that if the dwelling was not rebuilt the additional professional costs would never be incurred. Including such costs in the settlement sum would give the insured a windfall.[xxviii]

Whata J found in favour of the homeowner, holding that there was no reason to read down the words "reasonable cost to…replace" so as to exclude professional costs. The insurer's concerns about the insured receiving a windfall were misplaced, since "the cost to replace the home is simply the agreed measure of the present value"[xxix] and there was therefore "no unanticipated windfall"[xxx] to the homeowners. Whata J's decision was not appealed and it seems other insurers have been content to follow it as a guideline. Clearly it puts homeowners who are entitled to a cash settlement on the basis of 'present value' in a much better position than they would have been had the insurer's position prevailed. It also shows that the principle of indemnity – whereby the insured ought to be prevented from obtaining a windfall as a result of the insurance – always remains subject to what the parties have actually agreed to in terms of the policy. Indeed many cases involved 'new for old' policies under which cover extended to full replacement costs, displacing any 'indemnity' limit.

Aspects of replacement insurance arose in both *O'Loughlin v Tower Insurance Ltd*[xxxi] and *Skyward Aviation 2008 Ltd v Tower Insurance Ltd*.[xxxii] Both concerned the same insurance policy, which provided several different options for settlement of a claim by reinstatement: the home could be repaired; rebuilt on site; rebuilt elsewhere; or replaced by the purchase of a comparable house. However, the policy did not provide any obvious mechanism for determining which option would apply in particular cases. This naturally created scope for argument about who had the right to decide.

In *O'Loughlin*, the dwelling was located in the residential red zone. As well as damage to the house, there was significant damage to the underlying land. The homeowners accepted the Crown's offer to buy the land at the 2007 rating valuation ($110,000). EQC paid the homeowners the sum of $203,886.50, which all parties agreed was its maximum liability in respect of the damage suffered.[xxxiii] Tower elected to proceed on a repair basis rather than a rebuild or replacement basis, and accordingly it offered $197,179.15 to the homeowners, this being the estimated repair cost of $390,000 less the $203,886.50 from EQC. Among other things, the homeowners asserted that they were entitled to be paid the cost to rebuild the home on site, namely $620,000, less the EQC payout. This would require Tower to pay considerably more than it had offered.[xxxiv] Asher J held that it was for Tower, not the homeowners, to elect which of the reinstatement options under the policy would be pursued. That meant the notional cost of repair less the EQC payout was sufficient to discharge Tower's liability.[xxxv]

In *Skyward Aviation*, Tower elected to settle on the basis of the cost of buying a comparable replacement house for the insureds, estimated as $365,000. The homeowners asserted they were entitled to at least the cost of a repair on site, $682,525.00. The High Court followed Asher J's decision in *O'Loughlin*, holding that it was for the insurer to choose the reinstatement option to be used as the basis of a cash settlement. Skyward successfully appealed. The Court of Appeal held that, on a correct construction of the relevant parts of the policy, it was the homeowner who had the choice of reinstatement options. Harrison J said:[xxxvi]

> While accepting that the policy allows Tower to insist on repair in certain situations, we do not accept that it allows Tower to control what happens in every case. If it did…Tower might choose to pay on a present value basis,that being one of the settlement options, notwithstanding that the policyholder wished to reinstate or replace the house.

Thus the decision in *O'Loughlin* was overruled on this point.[xxxvii] The Supreme Court has since upheld the Court of Appeal's decision in *Skyward Aviation* on a further appeal by Tower.[xxxviii]

COMMERCIAL BUILDINGS

In the context of commercial buildings, the most significant case to date is probably *Ridgecrest NZ Ltd v IAG New Zealand Ltd*.[xxxix] The building in issue was affected by four separate earthquakes, the last of which damaged it beyond repair. The policy provided for a cap of $1.984m in respect of each event, although it was known that the building's replacement value was significantly more than this. Thus the case presented the problem of cover for successive losses under a single policy.[xl] The insured claimed it was entitled to the aggregate value of the damage caused by each of the four events, which would effectively allow recovery of full replacement value.[xli] The insurer rejected

this interpretation, arguing that the earlier losses ought to be merged into the claim associated with the final event,[xlii] with the result that the insured was only entitled to $1.984m plus the relatively small amounts spent prior to the final earthquake on remediating the earlier damage.[xliii]

The Supreme Court unanimously found for the insured.[xliv] The $1.984m cap applied to each event and the insured was entitled to full replacement value of the building, provided that there was no double counting of losses and the total of all claims did not exceed replacement value.[xlv] This was a sensible interpretation: there is no basis for limiting overall recovery to the amount of a liability cap where it is expressed as applying on a "happening by happening basis"[xlvi] and more than one happening in fact occurs (assuming the loss from any one event does not exceed the cap and is not accounted for more than once).

As a result of *Ridgecrest*, it is clear that in New Zealand the doctrine of merger will not avail insurers in earthquake cases where the policy provides for a liability cap, which operates in this way.[xlvii]

SHIFTING GROUND – COURT DECISIONS AND THE INSURED'S ENTITLEMENTS

Under normal conditions insurers generally approach the claims settlement process on a commercial basis, tending not to waste time and money on protracted litigation where a reasonable agreed settlement can be achieved. However, following a disaster, which triggers a mass of claims, this general tendency may change.
In Christchurch, some claims were settled fairly quickly; but many were not. Especially where the quantum of a claim was large or the legal issues were far-reaching, insurers have been seen to delay settlement and even to favour litigation. The timing of court decisions sits awkwardly with this reality.

An unknown number of homeowners will have settled with Tower Insurance in reliance on the decision in *O'Loughlin*. They will surely now be ruing the fact they did so before the Court of Appeal delivered its decision in *Skyward Aviation*. We may well see attempts to reopen settlement agreements on the basis they resulted from common mistake as to the law.[xlviii] That possibility ought to be carefully considered as part of any future review of New Zealand's natural disaster insurance arrangements.

THE GOVERNMENT'S DECISION TO ZONE CHRISTCHURCH PROPERTIES FOR A 'BUY-BACK SCHEME

After the 22 February 2011 earthquake, officials from Treasury, EQC and CERA considered the impact of land and property damage in the Christchurch areas and the identification of the worst affected areas. Cabinet delegated power to eight Cabinet Ministers (the Cabinet Committee) of whom one was the Minister for Earthquake Recovery (the Minister) to make cabinet decisions on matters relating to Canterbury earthquake land damage and remediation issues. Spurred on by a further serious earthquake on 13 June 2011, that group reached agreement on 22 June 2011 on a detailed strategy for identifying "zones" of Christchurch land and for the Crown to offer to purchase properties in the worst affected areas ("red- zoned" properties).

WERE THE ZONING DECISIONS LEGAL?

On 13 March 2015, New Zealand's highest Court (the Supreme Court) in *Quake Outcasts v Minister for Earthquake Recovery (Quake Outcasts)*,[xlix] in a majority decision, ruled the Cabinet Committee's zoning decision was illegal. The majority did not accept the Crown's argument that, in making that zoning decision, the Government was merely providing information to the public. It considered that the Canterbury Earthquake Recovery Act 2011(CER Act 2011) "covered the field" and therefore the procedures under that Act should have been used for any earthquake recovery measures, including the land zoning decisions. On that premise, the majority held that zoning decisions should have been made pursuant to the Recovery Strategy under the Act[l] but conceded that, because of necessity to act quickly to restore confidence in the Christchurch community, a Recovery Plan[li] could be used instead.[lii] It noted:[liii]

> This would have required at least the minimum consultation provided for by s 20 of the Act. Indeed, given the significance of the decisions made for all of Christchurch and in particular for those in the red zones, it may be that further consultation, albeit expedited, would have been required.[liv]

The majority held that because the June 2011 red zone measures should have been introduced under a Recovery Plan, it was "obviously too late for this to occur"[lv] and, thus, in practical terms, a declaration as to the unlawfulness of those decisions "would not serve any useful purpose and none is made".[lvi]

OBSERVATIONS

We make two brief but important observations as to this ruling, which was challenged stridently by one of the two dissenting Judges.

First, the majority noted that participation from the affected communities, to the extent compatible with expedited recovery, was a key value to the Act. It also noted that, while the prescribed legislative mechanisms "may not be entirely suitable, convenient or perfectly 'aligned' with what the Executive desires to achieve"[lvii] this does not mean that statutory procedures should be bypassed. Therefore, the majority held that the community had to be consulted on zoning issues before

decisions could be made. This was despite a Cabinet paper dated two days after the June 2011 decision that recorded the need for a "circuit breaker…to arrest the current decline in confidence and to form a solid basis for recovery".[lviii] There is a plethora of academic commentary as to what constitutes effective public consultation. One facet is particularly relevant. There are two types of public participation: 'token' and 'substantial'. The former occurs when decisions are made at speed with little time for the public to engage; the latter when the result of the community's participation is influential on the final decision.
In practical terms, it is difficult to imagine that substantial participation would have occurred in the zoning decisions made under a Recovery Plan.

Second, the majority refused to make an actual ruling on this point because it considered it was too late to reconsider the decision under a Recovery Plan. While this was made in the context of the residential red-zone decisions (by this stage, most had been purchased by the Crown) the June 2011 decision related to all zoning – green (land deemed suitable for repairs and rebuilding), red, and the in-betweens (orange and white).[lix] The green zone was further divided into three categories: TC1, TC2 and TC3. TC3 land was deemed to be likely to suffer moderate to significant land damage in future earthquakes and any rebuilding is not allowed to commence before site-specific investigations are carried out. Four years on, rebuilding on TC3 land is extremely expensive – an extra $100,000 is not uncommon. We note that that zoning mandate originates from an illegal decision.

THE RED-ZONE PAYOUTS

Under s 53 of the CER Act 2011 CERA, in the name of the Crown, may "purchase or otherwise acquire, hold, sell, exchange, mortgage, lease and dispose of land…"[lx]

CERA made two alternative offers to homeowners in the red zone: the first to buy the property entirely for a set price; the second to purchase just the land. Under the first option, the Crown would take over the homeowner's insurance and EQC claims for damage. Under the second option, the Crown buys the land, and the homeowner seeks compensation for damage to their home from both EQC and their private insurer.

From some data we have analysed, it appears that in the early red-zone settlements, homeowners preferred the second option, presumably on the basis that their negotiations with their insurance company would proceed calmly and a better payout would ensue. It is clear that as the settlements progressed the first option gained more popularity. We can only assume that bitter court litigation brought by the insured against the insurer (see, for example, *O'Loughlin*) was a very clear indicator that insurance companies were not operating as they might in a tranquil environment.

The 100 per cent payouts on the latest pre-earthquake rating valuation (generally made in 2007) – whichever choice – were often very favourable to the homeowner. A typical example of a low-range Option 1 pay-out comprises:

Rating Valuation:

Land:	$102,000.00
Improvements	$140,000.00
Capital	$242,000.00
Option 1 Payout:	$242,000.00

Monies:

CERA:	Land:	$242,000.00
EQC:	Building:	$113,850.00[lxi]
Insurance	Building:	$171,042.00

The homeowner is paid out on the latest rating valuation – generally considered a generous payment from the State. The Government pays out $242,000 and claws back $113,850 from its Crown Entity and also $171,042 from the private insurer. The homeowner is happy but, quite bizarrely, so is the Government. A situation where both parties appear to get a windfall from a commercial deal raises some interesting questions. Indeed, one of the dissenting Judges in *Quake Outcasts* noted that "[t]he June 2011 offers were made on a basis which presupposed that there would be a very substantial insurance recoveries."[lxii] This, of course, led to the argument that the Government was far less excited about offering the same 100 per cent deal to the uninsured or uninsurable in the September 2012 offers (see below). In that instance no insurance clawback was possible. The situation where one arm of the Government pays out money and recovers money from another arm of the Government (albeit a Crown Entity called EQC) must surely never have been the intention under the legislation.

VACANT OR UNINSURED RED-ZONED LAND

Vacant or uninsured land does not qualify for EQC insurance. Therefore, EQC is not responsible for any payments to those owners after a natural disaster. Nonetheless, fifteen months after its decision on insured residential red-zoned properties (September 2012), the Cabinet Committee released its decision for the landowners of vacant or uninsured red-zoned land. Under s 53 of the CER Act 2011, it offered them 50 per cent of the rateable value of the land. The objective for the 50 per cent offers was that the offer provided some support for the landowner to recover elsewhere while acknowledging that those owners were not fully insured throughout the whole process. This was the initial thrust of the Quake Outcasts litigation. The Quake Outcasts (an unincorporated group of land and property owners) together with a property developer applied for judicial review, the genesis of which was the decision-making behind the actual zoning of land after the earthquakes (discussed above) and subsequently the making of the 50 per cent offers. With respect to the latter, the appellants considered that their treatment was unequal by comparison to that afforded to insured residential property-owners (100 per cent). They argued that the 50 per cent offers were not made in accordance with the CER Act 2011 and also alleged that the offers were oppressive, disproportionate and in breach of their human rights.

THE SUPREME COURT MAJORITY VIEW

The majority of the Supreme Court, while it accepted that insurance was not an irrelevant consideration, held that other relevant considerations weighed against this being a determinative factor. The majority also considered that the failure of process and consultation under the CER Act 2011 in June 2011 and the delay in extending offers to the uninsured and uninsurable were relevant. The majority declared that the 50 per cent offers were not lawfully made.

OBSERVATIONS

The Court of Appeal[lxiii] held that, given there was a rational basis for such a differentiation (no insurance clawback for the Government), the mere fact that a different approach was taken in relation to the uninsured and uninsurable did not constitute a reviewable error. We have some sympathy for this approach as did one of the dissenting Judges. Likewise, as the other dissenting Judge observed,

the Government was entitled to be cautious about taking steps which might be seen as setting a precedent, in the sense of giving rise to an expectation that it will cover uninsured losses caused by natural disasters. In this sense, the actual purpose of EQC is diminished.

CONCLUSION

This paper has outlined a number of the difficult issues that have arisen after the Canterbury earthquakes in determining where losses should fall, and on what basis. It is evident that both EQC and private insurers were largely unprepared for a long-running multi-event disaster. It is not surprising then that both found it hard to adapt their policies and practices to cope with the harsh realities. Those difficulties impacted very unevenly on property owners, some of whom anticipated EQC would cover their losses, only to be disappointed. Private insurers and property owners also negotiated against a background of uncertainty as to the law – indeed of changed court rulings on which to base their decisions. As this paper shows, many of these issues took on new dimensions when the Government offered to buy 'red-zoned' residential properties. The full impact of that policy has yet to be established, but it seems evident many of its consequences were not anticipated. We believe the Canterbury experience can provide a multitude of lessons for insurance companies and Government agencies in other jurisdictions who may be contemplating how to approach issues of compensation for natural disaster damage. One thing is certain. Planning for how loss may be distributed, and designing a principled system for compensation cannot wait until after a disaster occurs.

References

Body Corporate 398983 v Zurich Australian Insurance Ltd [2013] NZHC 1109, (2013) 17 ANZ Insurance Cases 61-972.
Canterbury Earthquake Recovery Act 2011 Contractual Mistakes Act 1977.
Earthquake Commission Act 1993.
Earthquake Commission v Insurance Council of New Zealand [2014] NZHC 3138.
Finn, J, Toomey, E. (Eds.) (2015) *Legal Response to Natural Disasters*, Wellington: Thomson Reuters.
Fowler Developments Ltd v Chief Executive of the Canterbury Earthquake Recovery Authority [2015] NZSC (SC 8/2014).
Kraal v Earthquake Commission [2014] NZHC 919, [2014] 3 NZLR 42.
McLean v IAG New Zealand Ltd [2013] NZHC 1105.
Memorandum for Cabinet "Land Damage for the Canterbury Earthquakes" (24 June 2011).
Merkin, R. (2012) 'The Christchurch Earthquakes: Insurance and Reinsurance Issues', 18 Canta LR: 119-154.
O'Loughlin v Tower Insurance Ltd [2013] 3 NZLR 275 (HC).
Quake Outcasts v Minister for Earthquake Recovery (Quake Outcasts) [2015] NZSC (SC 5/2014).
Re Earthquake Commission [2011] 3 NZLR 695 (HC).
Ridgecrest NZ Ltd v IAG New Zealand Ltd [2015] 1 NZLR 40; [2014] NZSC 117 (SC)
Ridgecrest NZ Ltd v IAG New Zealand Ltd [2013] 3 NZLR 618 (CA); (2013) 17 ANZ Insurance Cases 61-977 (CA); [2014] Lloyd's Rep IR 48 (CA).
Ridgecrest NZ Ltd v IAG New Zealand Ltd [2012] NZHC 2954 (HC); (2013) 17 ANZ Insurance Cases 61-957 (HC).
Skyward Aviation 2008 Ltd v Tower Insurance Ltd [2014] 2 NZLR 713 (CA).

i Earthquake Commission Act 1993, s 14. The levy at the time of Canterbury earthquakes was at the rate of 5 cents per $100 of cover; it has since tripled. EQC also insures much of the contents of residential dwellings, to a maximum of $20,000 plus GST where those items have been insured: Earthquake Commission Act 1993, s 20.

ii See the definition of "natural disaster" in Earthquake Commission Act 1993, s 2.

iii Earthquake Commission Act 1993, s 2(1).

iv For a more detailed account see Finn, J, Toomey, E. (Eds.) (2015) *Legal Response to Natural Disasters*, Wellington: Thomson Reuters: 196-199.

v Earthquake Commission Act 1993, s 18(1).

vi *Re Earthquake Commission* [2011] 3 NZLR 695 (HC).

vii See for example the observations in *Body Corporate 398983 v Zurich Australian Insurance Ltd* [2013] NZHC 1109, (2013) 17 ANZ Insurance Cases 61-972 at [12].

viii *Earthquake Commission v Insurance Council of New Zealand* [2014] NZHC 3138 at [59].

ix *Earthquake Commission v Insurance Council of New Zealand* [2014] NZHC 3138.

x Earthquake Commission Act 1993, s 2.

xi *Earthquake Commission v Insurance Council of New Zealand* [2014] NZHC 3138 at [79].

xii *Earthquake Commission v Insurance Council of New Zealand* [2014] NZHC 3138 at [91]-[92].

xiii *Earthquake Commission v Insurance Council of New Zealand* [2014] NZHC 3138 at [95]-[97].

xiv *Earthquake Commission v Insurance Council of New Zealand* [2014] NZHC 3138 at [114].

xv *Earthquake Commission v Insurance Council of New Zealand* [2014] NZHC 3138 at [87].

xvi *Kraal v Earthquake Commission* [2014] NZHC 919, [2014] 3 NZLR 42.

xvii *Kraal v Earthquake Commission* [2014] NZHC 919, [2014] 3 NZLR 42 at [67]–[68].

xviii See, for example, Merkin, R.(2012) 'The Christchurch Earthquakes: Insurance and Reinsurance Issues'18 Canta LR: 119–154, at 126.

xix *Kraal v Earthquake Commission* [2015] NZCA 13.

xx *Kraal v Earthquake Commission* [2015] NZCA 13 at [44]-[45].

xxi *Kraal v Earthquake Commission* [2015] NZCA 13 at [78].

xxii Often enough, insurers and EQC were happy to cash settle claims rather than become involved in the physical work of remediating damage (whether by repair or rebuild).

xxiii Even where the dispute relates to the quantification of the costs of a repair or rebuild (reinstatement having been agreed to) it is likely the wording of certain clauses in the policy will still have some bearing on the issue.

xxiv Insurance policies are contracts and the courts approach the task of interpreting them accordingly: see, for example, *McLean v IAG New Zealand Ltd* [2013] NZHC 1105 at [9]. While the law (particularly statute law) does provide rules which can in some cases override the terms of an insurance policy, in many cases such rules will not apply, so that the obligations and liabilities of the parties are dictated by what the policy, correctly construed, provides.

xxv *McLean v IAG New Zealand Ltd* [2013] NZHC 1105 (HC).

xxvi For a summary of the facts and policy wording, see *McLean v IAG New Zealand Ltd* [2013] NZHC 1105 (HC) at [2] and [3].

xxvii Such as fees incurred on architects, engineers and surveyors, as well as legal and other regulatory costs.

xxviii The insurer also argued that professional costs were an "added benefit", not a cost associated with the "physical works" required to rebuild the dwelling, and as such were not covered unless expressly provided for in the policy. For a summary of the arguments put forward by both parties, see *McLean v IAG New Zealand Ltd* [2013] NZHC 1105 (HC) at [7] and [8].

xxix See *McLean v IAG New Zealand Ltd* [2013] NZHC 1105 (HC) at [18].

xxx See *McLean v IAG New Zealand Ltd* [2013] NZHC 1105 (HC) at [18].

xxxi *O'Loughlin v Tower Insurance Ltd* [2013] 3 NZLR 275 (HC).

xxxii *Skyward Aviation 2008 Ltd v Tower Insurance Ltd* [2014] 2 NZLR 713 (CA). The decision at first instance can be found at [2013] NZHC 1856 (HC).

xxxiii In this case, by as many as three separate seismic events. Thus EQC was exposed to liability of up to $300,000 (plus GST), the $100,000 cap applying to each event rather than all of them together, with the total damage apportioned accordingly.

xxxiv For a full account of the facts, see *O'Loughlin v Tower Insurance Ltd* [2013] 3 NZLR 275 (HC) at [5] – [16].

xxxv However, Asher J also held that Tower's estimated cost of repair was incorrectly calculated, and would need to be revisited. His Honour therefore directed the parties to file further submissions as to the correct calculation of repair costs. For a useful summary of Asher J's findings, see *O'Loughlin v Tower Insurance Ltd* [2013] 3 NZLR 275 (HC) at [4].

xxxvi *Skyward Aviation 2008 Ltd v Tower Insurance Ltd* [2014] 2 NZLR 713 (CA) at [24].

xxxvii See the Court of Appeal decision in *Skyward Aviation 2008 Ltd v Tower Insurance Ltd* [2014] 2 NZLR 713 (CA) at [38].

xxxviii *Skyward Aviation 2008 Ltd v Tower Insurance Ltd* (2015) 18 ANZ Insurance Cases 62-050 (SC).

xxxix *Ridgecrest NZ Ltd v IAG New Zealand Ltd* [2015] 1 NZLR 40; [2014] NZSC 117 (SC).

xl For a summary of the agreed facts, see *Ridgecrest NZ Ltd v IAG New Zealand Ltd* [2015] 1 NZLR 40; [2014] NZSC 117 (SC) at [11].

xli See *Ridgecrest NZ Ltd v IAG New Zealand Ltd* [2015] 1 NZLR 40; [2014] NZSC 117 (SC) at [16].

xlii The insured's merger argument was based on s 77(2) of the Marine Insurance Act 1908, which provides: "Where under the same policy a partial loss which has not been repaired or otherwise made good is followed by a total loss, the [insured] can only recover in respect of the total loss."

xliii See *Ridgecrest NZ Ltd v IAG New Zealand Ltd* [2015] 1 NZLR 40; [2014] NZSC 117 (SC) at [17].

xliv As had the Court of Appeal: see [2013] 3 NZLR 618 (CA); (2013) 17 ANZ Insurance Cases 61-977 (CA); [2014] Lloyd's Rep IR 48 (CA). The High Court had found in favour of the insured but also said that the contract of insurance was frustrated by the final event: see *Ridgecrest NZ Ltd v IAG New Zealand Ltd* [2012] NZHC 2954 (HC); (2013) 17 ANZ Insurance Cases 61-957 (HC); [2013] Lloyd's Rep IR 67 (HC). This was a finding that the Supreme Court found somewhat unusual: see *Ridgecrest NZ Ltd v IAG New Zealand Ltd* [2015] 1 NZLR 40; [2014] NZSC 117 (SC) at [18].

xlv In other words, the damage would have to be apportioned across the four events so that each instance of damage was accounted for only once.

xlvi See *Ridgecrest NZ Ltd v IAG New Zealand Ltd* [2015] 1 NZLR 40; [2014] NZSC 117 (SC) at [14].

xlvii As a result of the scenario presented in *Ridgecrest*, there has been some academic debate about whether merger is properly applicable in the context of fire and general insurance: see, for example, Merkin, R. (2012) 'The Christchurch Earthquakes: Insurance and Reinsurance Issues' 18 Canta LR: 119-154, at 127 – 131, suggesting that merger can apply in the non-marine context.

xlviii A potential basis for an action for relief under the Contractual Mistakes Act 1977.

xlix *Quake Outcasts v Minister for Earthquake Recovery* [2015] NZSC (SC 5/2014). This decision must be read alongside a further decision delivered at the same time: *Fowler Developments Ltd v Chief Executive of the Canterbury Earthquake Recovery Authority* [2015] NZSC (SC 8/2014).

l Canterbury Earthquake Recovery Act 2011, ss 11-15.

li Canterbury Earthquake Recovery Act 2011, ss 16-26.

lii Canterbury Earthquake Recovery Act, s 18(2), provides the Recovery Plans may precede the Recovery Strategy.

liii *Quake Outcasts v Minister for Earthquake Recovery* [2015] NZSC (SC 5/2014) at [137].

liv Canterbury Earthquake Recovery Act 2011, s 19(2)(a), (b) and (e).

lv *Quake Outcasts v Minister for Earthquake Recovery* [2015] NZSC (SC 5/2014) at [205].

lvi *Quake Outcasts v Minister for Earthquake Recovery* [2015] NZSC (SC 5/2014) at [205].

lvii *Quake Outcasts v Minister for Earthquake Recovery* [2015] NZSC (SC 5/2014) at [131].

lviii Memorandum for Cabinet "Land Damage for the Canterbury Earthquakes" (24 June 2011) at [19].

lix The yellow and white zones were areas held "in limbo" awaiting further land investigation before they could be zoned either green or red.

lx Canterbury Earthquake Recovery Act 2011, s 53 (5) and (6) provide that if any such land is no longer required and is available for disposal, nothing in ss 40-42 of the Public Works Act 1982 (PWA 1981) (the offer back provisions) applies, whether by sale, exchange or otherwise, except as provided by s 58. If, however, the Minister for Earthquake Recovery, by notice in the *Gazette*, declares land held under the CER Act 2011 to be held for a public work in terms of the PWA 1981, offer-back requirements under the Act continue to apply.

lxi Earthquake Commission Act 1993, s 18 provides for Earthquake Commission insurance for residential buildings. Section 19 provides for Earthquake Commission insurance for land.

lxii *Quake Outcasts v Minister for Earthquake Recovery* [2015] NZSC (SC 5/2014) at [362].

lxiii *Minister for Earthquake Recovery v Fowler Developments Ltd* [2013] NZCA 588, [2014] 2 NZLR 587 at [150].

WE WANT YOU!

countrywideaustral

We are actively seeking mature minded people with a confident and positive phone manner.

We are a specialised publisher with vacancies to join our call centre sales team.

No experience is necessary but a great attitude along with dedication to learn is essential.

Contact Daniel on 03 9937 0200 or email CV to ddib@cwaustral.com.au

This is an outstanding commission only sales role.

Please visit our website www.cwaustral.com.au

First in First Aid

St John

Remain First Aid Confident

Dealing with emergencies, accidents and injuries is a part of your life.

Keeping your first aid skills up-to-date gives you the confidence to do what needs to be done in an emergency, without hesitation. St John is Australia's leader in first aid and provides hands-on in-depth courses year-round, throughout Australia.

Having an up-to-date St John first aid kit on hand can help you make the most of your first aid training.

Remain First Aid Confident with St John.

Nationally Recognised Training

1300 360 455 | www.sjaa.com.au

We help with a huge range of concerns regarding families, relationships, being a dad, and the workplace:

- Difficult situations at work
- Changes in relationships
- Being a good father
- Dealing with separation
- Coaching and counselling

Practical strategies that will help. Mensline Australia is a National serviced funded by The Department of Families, Community Services and Indigenous Affairs.

1300 78 99 78

www.menslineaus.org.au

Talk it over **Mens Line AUSTRALIA**

Specialist, professional counsellors - providing 24 hour, 7 day support.

A service managed by Crisis Support Services Inc.

crisis support services

MLA 006

NATIONAL EMERGENCY RESPONSE:

AUTUMN FLASHBACK

A MESSAGE FROM THE DIRECTOR-GENERAL, NATURAL DISASTERS ORGANISATION, AIR VICE MARSHAL J. LESSELS, O.B.E.

To be invited to contribute to the inaugural edition of National Emergency Response is an honour which I gladly accepted. I understand that the natural disasters organisation (NDO) was associated with formation of the Institute. The aims of your Institute and NDO are very similar. You are basically looking to the provision and needs of a professional body of counter-disaster services administrators, and NDO is looking to contributing to the development and support of a total counter-disaster infrastructure throughout Australia.

Those of the South Australian Division who initiated and contributed to Emergency Response deserve to be congratulated. The high standard which it achieved, and the esteem with which it has been held, created the environment for a truly national organ of a national institute. You can be assured that your Institute and your magazine will have the full support of NDO.

During the eleven months since I took over as Director General of NDO, I have visited many Emergency Services Headquarters and units. One can only be most impressed by the high standard of staff professionalism and the degree of dedication of the volunteers. The people who provide their skills to Emergency Services are invariably the back-bone of any society. I feel privileged to be involved in the continuing Commonwealth Programmes that provide support in the form of training courses at the Australian Counter Disaster College, the supply of emergency equipment, SES Regional Officer salary reimbursement, unit accommodation subsidies, and the production of public awareness material and disaster training manuals.

I write this contribution at a time when I have just returned from an overseas trip looking at Civil Defence and Counter Disaster Management in Hong Kong, Switzerland, Israel, Sweden, The United Kingdom and Canada, and hope soon to impart the benefits of this to Emergency Services in Australia. It is also the eve of our Disaster Season in Australia and I am aware of the potential for extreme demands on some, or all of Australia's Emergency Services. Naturally, I hope that there will be no disaster this season. Nevertheless, should the services of you, the readers of this Journal, be required, I am confident of the professionalism and dedication which will be displayed.

In conclusion, once again, my congratulations to National Emergency Response and best wishes to all members and readers during 1985.

National Council in Session

From left to right: Allan Alder (Vic.); Ray Lennox (N.S.W.); Lew Hughes (N.S.W.); Brian Lancaster (S.A.); Brian Brand (Tas.).

Personal Profile

Our first Personal Profile is on our Divisional and Federal President —

Mr. J. H. Lewis-Hughes, O.B.E.

"Lew", as he is known to his countless friends, has had a long and distinguished career in the service of State, both as a Volunteer and as a full-time Servant.

After completing his education, "Lew" joined the Royal Australian Navy in January, 1942, and after preliminary training at Flinders Naval Depot, Victoria, and HMAS "Rushcutter", Anti-Submarine School he spent the next two-and-a-half years on active Service.

In 1945, he was selected for Officer training and was Commissioned as a Sub-Lieutenant. He saw active service and spent the last nine months of his service engaged in hydrographic surveys of the New Guinea area.

In 1947, he was granted discharge from the Navy and joined the N.S.W. Public Service. He was appointed to the Valuer-General's Department and after a short period at Head Office, in Sydney, he was transferred to Lismore. In 1952, he qualified as a Valuer and in 1957 was appointed District Valuer.

"Lew" joined the NSW Civil Defence Organisation as a Volunteer, in Lismore, shortly after its foundation in 1955, following disastrous floods throughout the State.

In 1957, he was appointed District Operational Controller for the Richmond area and in 1958, he was further appointed Controller of the Richmond/Tweed Region. Both the Richmond and Tweed River areas are subject to frequent and rapid flooding, usually due to cyclonic activities which create extensive property damage.

"Lew" served in this position until 1969 when he was transferred to Dubbo. It was in 1963 that he was honoured with the appointment as an Officer of the Most Excellent Order of the British Empire (O.B.E.), in recognition of hi. contribution to building up the Organisation in this Region.

Upon "Lew's" transfer to Dubbo as Regional Senior Valuer, he was appointed volunteer Pro-Director of Civil Defence. In this role he was requested by the Director, to commence planning the Organisation of a voluntary State Headquarters to operate in the event of State HQ being incapable of operation for any reason. In addition, he served in the Macquarie Region Headquarters where he was again involved in developing flood warning systems and flood relief measures for the largest region in N.S.W. Floods in this area can inundate large areas for long periods

In 1973, "Lew" was appointed Deputy Director of State Emergency Services and Civil Defence where he was very involved in planning and development of the Organisation, particularly, regarding Welfare Planning and flood warning systems.

"Lew" retired in 1983. However, he maintains an active involvement in the Organisation as Special Advisor to the Sydney Northern Division and Member of the Directors Welfare Advisory Committee. He also is involved with Legacy, Naval Officers Association, R.S.L. and more recently, the Sydney "Old Mint" Museum.

"Lew" was one of the foundation members of our Institute and has served as Divisional President since its inception. He has been Federal President since 1978.

I hope this, the first "Personal Profile" has been of interest to all readers as it provides some brief detail of one of the Leaders of our Institute.

GREG JAMES.

SOUTH AUSTRALIA GAINS T.A.F.E. COURSE IN FIRE TECHNOLOGY

Mr. L. J. Brown, Chairman of the Australian Fire Protection Association Ltd. (S.A.) Education Committee, speaking at the Annual General Meeting of the Association, 4th December, said that he was pleased to report that the Hon. Frank Blevins M.P. at the opening of Fire Prevention Week, had announced that the Department of Technical and Further Education had approved a course in Fire Technology to commence in 1985. This course will provide training for those involved in the diverse areas of fire safety in order to reduce the cost to the community in terms of loss of life and property. South Australia has been the scene of a number of disastrous fires, both urban and rural, and the development of a course of training represents an essential step in limiting their incidence and severity.

The Minister of Education the Hon. Lynn M. F. Arnold said — "The course addresses the needs not only of firefighters, but those engaged in the design and installation of fire detection and supression systems in accordance with the appropriate Acts and Regulations. Additionally the incorporation of a communication skills segment will help in getting the fire safety message across to the public". "The assistance given in the development of the course by the A.F.P.A. and the offer of equipment for use in the course by the Fire Protection Industry Association of Australia Limited is gratefully acknowledged".

"This Certificate in Fire Technology, which will serve to increase further the public's confidence in those involved in fire safety, it to be implemented at Gilles Plains TAFE College. The provision of this course demonstrates again TAFE's philosophy of providing programmes relevant to the community's needs", concluded Mr. Arnold.

Mr. Brown said "Class facilities in the first year will limit the number of students to twenty four. Entry to the course is by a personal counselling interview where students will be expected to demonstrate a high degree of personal desire to gain a qualification in the area of Fire Technology. There are no specific conditions for entry but students would normally have achieved year 11 standard and/or be employed in the Fire Technology Industry or associated Service Organisations".

"Persons interested in undertaking the Course should contact the Australian Fire Protection Association Ltd. P.O. Box 338, Hindmarsh, 5007," Mr. Brown advised.

MEMBERSHIP INFORMATION

Membership forms are available online at www.aies.net.au

NATIONAL COUNCIL
The Company Secretary
Australian Institute of Emergency Services (General Council)
Post Office Box 10530, Adelaide Business Centre, SA 5000
Ph: (08) 8347 2126 ML 0401 996 432
Email: registrar@aies.net.au
National Web Site: www.aies.net.au

AUSTRALIAN CAPITAL TERRITORY
The Registrar – ACT Division of Australian Institute of Emergency Services. PO Box 504, Civic Square ACT 2601
Email: registrar.act@aies.net.au

NEW SOUTH WALES AND NEW ZEALAND
The Registrar – NSW Division of Australian Institute of Emergency Services. PO Box 695, Haberfield NSW 2045
Email: registrar.nsw@aies.net.au

QUEENSLAND
The Registrar – QLD Division of Australian Institute of Emergency Services. PO Box 590 Fortitude Valley, QLD 4006
Email: registrar.qld@aies.net.au

SOUTH AUSTRALIA, WESTERN AUSTRALIA AND NORTHERN TERRITORY
The Registrar – SA Division of Australian Institute of Emergency Services. PO Box 10530 Adelaide Business Centre, SA 5000
Email: registrar.sa@aies.net.au,

TASMANIA
The Registrar – TAS Division of Australian Institute of Emergency Services. PO Box 1 Lindisfarne, TAS 7015
Email: registrar.tas@aies.net.au

VICTORIA
The Registrar – VIC Division of Australian Institute of Emergency Services. C/O 44 Webb St, Warrandyte, VIC 3113
Email: registrar.vic@aies.net.au

THE INSTITUTE'S AIMS
To provide a professional body for the study of the roles and functions of Emergency Services and Emergency Management Organisations throughout Australia, and the promotion and advancement of professional standards in these and associated services.

THE INSTITUTE'S OBJECTIVES
- To raise the status and advance the interests of the profession of emergency management and counter disaster services administration.
- To represent generally the views and interests of the profession and to promote a high standard of integrity and efficiency in the skills of emergency and counter disaster administration.
- To provide opportunities for association among members and students to promote and protect their mutual interest.
- To facilitate full interchange of concepts and techniques amongst members.
- To bring to the notice of the public such matters that are deemed to be important for safety and protection of the community and to promote research and development of emergency services generally.
- To establish a national organisation to foster international
- co-operation in counter-disaster services administration.

THE INSTITUTE OFFERS
- An opportunity to be part of a progressive Australia-wide Institute dedicated to the progression and recognition of the Emergency Service role in the community.
- An independent forum where you can be heard and your opinions shared with other emergency service members.
- A journal with information from institutes and other sources around the world in addition to the interchange of views between Divisions in Australia, as well as access to the Institute website.
- Reduced fees for members at Institute Seminars and Conferences and an information service supplied by professional experienced officers.
- A Certificate of Membership.
- The opportunity to use the initials of the particular membership status after your name.
- Corporate members receive a bronze plaque free of charge and can advertise on the AIES website, as well as provide articles for inclusion in the Institute's journal.

MEMBERSHIP
Costs

Nomination Fee:	$30.00
Annual Subscription:	$60.00
Fellows:	$80.00
Corporate Subscription:	$500.00

Note: Institute Fees may be tax deductible.

Classes
There are four classes of membership:
• Members • Fellows • Life Fellows • Corporate
There are five categories of affiliation with the Institute that may be offered to persons who do not meet the requirements for membership:
• Associate • Student Member • Retired Member
• Honorary Member • Honorary Fellow

ELIGIBILITY
Applications for membership will be considered from persons who are at least eighteen years of age and who:
- Are members of a permanent emergency service or associated service, or
- Are volunteer members of emergency or associated services.

Admission as a member may be granted if in the opinion of the General Council the applicant meets all other conditions of membership and passes such examinations and/or other tests as may be required by General Council.

MEMBERS
Our members come from
• Ambulance Service • Community Services • Emergency Equipment Industry • Emergency Management Organisations • Fire Services • Health, Medical and Nursing Services • Mines Rescue • Police Service • Safety Officers • SES • Transport Services • Volunteer Marine Rescue • Volunteer Rescue Associations

AIES CONTACTS

GENERAL ENQUIRIES

Email: enquiries@aies.net.au

Company Secretary
PO Box 10530
ADELAIDE BUSINESS CENTRE SA 5000

NATIONAL COUNCIL

President
Steve Jenkins MAIES
Email: president@aies.net.au
Phone: 0412 753 790

Vice President
Scott Milne FAIES
Email: vice.president@aies.net.au
Phone: 0400 332 780

Company Secretary
Peter Schar FAIES
Email: registrar@aies.net.au
Phone: 0401 996 432

National Treasurer
David Mack MAIES
Email: treasurer@aies.net.au
Phone: 0407 816 885

National Membership Registrar/Webmaster
John Rice LFAIES
Email: membership@aies.net.au
Phone 0448 204 043

AUSTRALIAN CAPITAL TERRITORY DIVISION

President
Scott Milne ESM FAIES
Email: president.act@aies.net.au
Phone: 02 6279 5603
0400 332 780

Registrar
Phil Gaden MAIES
Email: registrar.act@aies.net.au
Phone: 0413 137 761
PO Box 504
CIVIC SQUARE ACT 2601

NEW SOUTH WALES/NEW ZEALAND

President
Anthony Macvean MAIES
Email: president.nsw@aies.net.au
Phone: 0408 000 197

Registrar
Anthony Macvean MAIES
Email: registrar.nsw@aies.net.au
Phone: 0408 000 197
PO Box 695
HABERFIELD NSW 2045

QUEENSLAND

President
Wayne Coutts MAIES
Email: president.qld@aies.net.au
Phone: 0458 410 998

Treasurer/Registrar
Jenny Crump MAIES
Email: registrar.qld@aies.net.au
Phone: 0418 726 224
PO Box 590
FORTITUDE VALLEY QLD 4006

SOUTH AUSTRALIA/WESTERN AUSTRALIA/NORTHERN TERRITORY

President
Brian Mattner, MAIES
Email: president.sa@aies.net.au
Phone: 0421 618 773

Registrar
Peter Bos MAIES
Email: registrar.sa@aies.net.au
Phone: 0401 426 812
PO Box 10530
ADELAIDE BUSINESS CENTRE SA 5000

TASMANIA

President
Ron Jones LFAIES
Email: president.tas@aies.net.au
Phone: 0427 008 705

Registrar
Neil Wright MAIES
Email: registrar.tas@aies.net.au
0418 569 925
PO Box 1
LINDISFARNE TAS 7015

VICTORIA

President
Alan Marshall C.StJ, LFAIES
Email: president.vic@aies.net.au
Phone: 0428 308 008

Registrar
Alan Alder OAM, LFAIES
Email: registrar.vic@aies.net.au
Phone: 03 9844 3237
44 Webb Street
WARRANDYTE VIC 3113

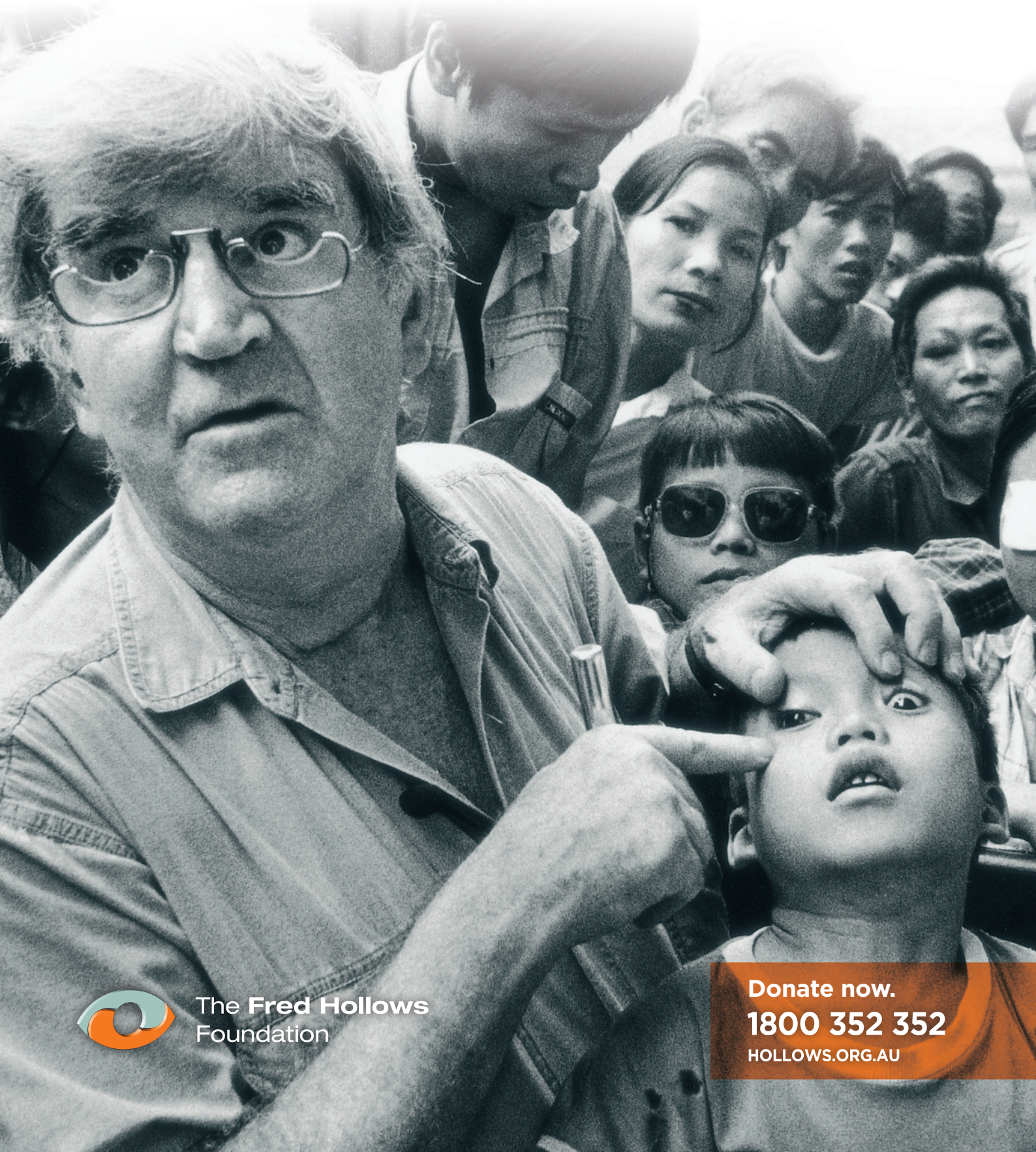
NATIONAL EMERGENCY RESPONSE JOURNAL

Editor
Kristi High
Email: editor@aies.net.au
Phone: 0407 366 466

Police Officers in Paris patrol the streets after the terrorist attacks on 13 November 2015.

$25 can restore sight.

4 out of 5 people who are blind don't need to be.
Help keep Fred's dream alive.



The Fred Hollows Foundation

Donate now.
1800 352 352
HOLLOWS.ORG.AU

WE'RE ON A MISSION TO SAVE LIVES.

The Australian Red Cross Blood Service is uniting with organisations like yours to form a powerful movement.

Together, we can reach 25% of Australia's blood donations.

Call 1300 886 524 for more information
or visit donateblood.com.au/red25

RED25 UNITE TO SAVE LIVES

Australian Red Cross
BLOOD SERVICE